

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred House Bill 1942, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 4-13-2-14.7 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14.7. A person
- 4 employed, appointed, or under contract with a state agency, who works
- 5 with or around children, shall be dismissed (after the appropriate
- 6 pre-deprivation procedure has occurred) if that person is, or has ever
- 7 been, convicted of any of the following:
- 8 (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)
- 9 years of age.
- 10 (2) Criminal deviate conduct (IC 35-42-4-2), if the victim is less
- 11 than eighteen (18) years of age.
- 12 (3) Child molesting (IC 35-42-4-3).
- 13 (4) Child exploitation (IC 35-42-4-4(b)).
- 14 (5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) **Sexual misconduct with a minor (IC 35-42-4-9).**

(9) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

SECTION 2. IC 5-2-5-5, AS AMENDED BY P.L.10-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) Except as provided in subsection (b), on request, law enforcement agencies shall release or allow inspection of a limited criminal history to noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;

(2) has applied for a license and criminal history data as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that his rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) has volunteered services at a public school (as defined in IC 20-10.1-1-2) or non-public school (as defined in IC 20-10.1-1-3) that involve contact with, care of, or supervision over a student enrolled in the school;

(10) is being investigated for welfare fraud by an investigator of the division of family and children or a county office of family and children;

(11) is being sought by the parent locator service of the child support bureau of the division of family and children; or

(12) has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen

- 1 (18) years of age.
- 2 (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is
- 3 less than eighteen (18) years of age.
- 4 (C) Child molesting (IC 35-42-4-3).
- 5 (D) Child exploitation (IC 35-42-4-4(b)).
- 6 (E) Possession of child pornography (IC 35-42-4-4(c)).
- 7 (F) Vicarious sexual gratification (IC 35-42-4-5).
- 8 (G) Child solicitation (IC 35-42-4-6).
- 9 (H) Child seduction (IC 35-42-4-7).
- 10 (I) **Sexual misconduct with a minor (IC 35-42-4-9).**
- 11 (J) Incest (IC 35-46-1-3), if the victim is less than eighteen
- 12 (18) years of age.

13 However, limited criminal history information obtained from the
 14 National Crime Information Center may not be released under this
 15 section except to the extent permitted by the Attorney General of the
 16 United States.

17 (b) A law enforcement agency shall allow inspection of a limited
 18 criminal history by and release a limited criminal history to the
 19 following noncriminal justice organizations:

- 20 (1) Federally chartered or insured banking institutions.
- 21 (2) Officials of state and local government for the purpose of
- 22 employment and licensing.
- 23 (3) Segments of the securities industry identified under 15 U.S.C.
- 24 78q(f)(2).

25 (c) Any person who uses limited criminal history for any purpose
 26 not specified under this section commits a Class A misdemeanor.

27 SECTION 3. IC 12-24-3-2 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. To provide greater
 29 security for patients, visitors, and employees, the division may not
 30 employ in a state institution an individual who has been convicted of
 31 any of the following offenses:

- 32 (1) Rape (IC 35-42-4-1).
- 33 (2) Criminal deviate conduct (IC 35-42-4-2).
- 34 (3) Child molesting (IC 35-42-4-3).
- 35 (4) Child exploitation (IC 35-42-4-4).

36 **(5) Sexual misconduct with a minor (IC 35-42-4-9).**

37 SECTION 4. IC 20-6.1-4-10 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. ~~Cancellation of~~

~~Indefinite Contract by School Corporation Grounds.~~ (a) An indefinite contract with a permanent teacher may be canceled in the manner specified in section 11 of this chapter for only the following grounds:

- (1) immorality;
- (2) insubordination, which means a willful refusal to obey the state school laws or reasonable rules prescribed for the government of the school corporation;
- (3) neglect of duty;
- (4) incompetency;
- (5) justifiable decrease in the number of teaching positions;
- (6) a conviction for:
 - (A) rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age;
 - (B) criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age;
 - (C) child molesting (IC 35-42-4-3);
 - (D) child exploitation (IC 35-42-4-4(b));
 - (E) vicarious sexual gratification (IC 35-42-4-5);
 - (F) child solicitation (IC 35-42-4-6);
 - (G) child seduction (IC 35-42-4-7); ~~or~~
 - (H) sexual misconduct with a minor (IC 35-42-4-9); or**
 - (I) incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age; or**
- (7) other good and just cause.

When the cause of cancellation is ground (1), (2), or (6), the cancellation is effective immediately. When the cause of cancellation is ground (3), (4), (5), or (7), the cancellation is effective at the end of the school term following the cancellation.

(b) An indefinite contract may not be canceled for political or personal reasons.

SECTION 5. IC 35-42-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.

(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.

(c) As used in this section, "child care worker" means a person who provides care, ~~or~~ supervision, ~~of or instruction to~~ a child within the scope of the person's employment in a public or private school or

1 shelter care facility.

2 (d) As used in this section, "custodian" means any person who
3 resides with a child and is responsible for the child's welfare.

4 (e) As used in this section, "stepparent" means an individual who is
5 married to a child's custodial or noncustodial parent and is not the
6 child's adoptive parent.

7 (f) If a person who is:

8 (1) at least eighteen (18) years of age; and

9 (2) the:

10 (A) guardian, adoptive parent, adoptive grandparent,
11 custodian, or stepparent of; or

12 (B) child care worker for;
13 a child at least sixteen (16) years of age but less than eighteen
14 (18) years of age;

15 engages in sexual intercourse or deviate sexual conduct (**as defined in**
16 **IC 35-41-1-9**) with the child, the person commits child seduction, a
17 Class D felony.

18 SECTION 6. IC 35-50-1-2 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) As used in this
20 section, "crime of violence" means:

21 (1) murder (IC 35-42-1-1);

22 (2) voluntary manslaughter (IC 35-42-1-3);

23 (3) involuntary manslaughter (IC 35-42-1-4);

24 (4) reckless homicide (IC 35-42-1-5);

25 (5) aggravated battery (IC 35-42-2-1.5);

26 (6) kidnapping (IC 35-42-3-2);

27 (7) rape (IC 35-42-4-1);

28 (8) criminal deviate conduct (IC 35-42-4-2);

29 (9) child molesting (IC 35-42-4-3);

30 (10) **sexual misconduct with a minor as a Class A felony**
31 **(IC 35-42-4-9);**

32 (11) robbery as a Class A felony or a Class B felony
33 (IC 35-42-5-1);

34 ~~(11)~~ (12) burglary as a Class A felony or a Class B felony
35 (IC 35-43-2-1); or

36 ~~(12)~~ (13) causing death when operating a motor vehicle
37 (IC 9-30-5-5).

38 (b) As used in this section, "episode of criminal conduct" means

1 offenses or a connected series of offenses that are closely related in
2 time, place, and circumstance.

3 (c) Except as provided in subsection (d) or (e), the court shall
4 determine whether terms of imprisonment shall be served concurrently
5 or consecutively. The court may consider the aggravating and
6 mitigating circumstances in IC 35-38-1-7.1(b) and IC 35-38-1-7.1(c)
7 in making a determination under this subsection. The court may order
8 terms of imprisonment to be served consecutively even if the sentences
9 are not imposed at the same time. However, except for crimes of
10 violence, the total of the consecutive terms of imprisonment, exclusive
11 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to
12 which the defendant is sentenced for felony convictions arising out of
13 an episode of criminal conduct shall not exceed the presumptive
14 sentence for a felony which is one (1) class of felony higher than the
15 most serious of the felonies for which the person has been convicted.

16 (d) If, after being arrested for one (1) crime, a person commits
17 another crime:

18 (1) before the date the person is discharged from probation,
19 parole, or a term of imprisonment imposed for the first crime; or

20 (2) while the person is released:

21 (A) upon the person's own recognizance; or

22 (B) on bond;

23 the terms of imprisonment for the crimes shall be served consecutively,
24 regardless of the order in which the crimes are tried and sentences are
25 imposed.

26 (e) If a court determines under IC 35-50-2-11 that a person used a
27 firearm in the commission of the offense for which the person was

- 1 convicted, the term of imprisonment for the underlying offense and the
- 2 additional term of imprisonment imposed under IC 35-50-2-11 must be
- 3 served consecutively.

(Reference is to HB 1942 as introduced.)

and when so amended that said bill do pass.

Representative Dvorak